



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,432	10/15/2001	Nimer Yaseen	5022.8-1	5023

23559 7590 06/13/2005

MUNSCH, HARDT, KOPF & HARR, P.C.
INTELLECTUAL PROPERTY DOCKET CLERK
1445 ROSS AVENUE, SUITE 4000
DALLAS, TX 75202-2790

EXAMINER

BILGRAMI, ASGHAR H

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,432

Applicant(s)

YASEEN ET AL.

Examiner

Asghar Bilgrami

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on October 15, 2001 was filed after the mailing date of the application on March 4, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-3, 5-10 & 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Dharanikota et al (U.S. Pub No. 2002/0107908).

4. As per claims 1 & 9 Dharanikota disclosed a method of transmitting packet-switched data in a network having a plurality of nodes therein, the method comprising the steps of: defining an ingress rate restriction for each of at least two nodes of the plurality of nodes, the ingress rate restriction limiting the amount of data that may be transmitted from the respective node on at least one channel of the network; defining an egress rate restriction for each of the at least two nodes of the plurality of nodes, the egress rate restriction limiting the amount of data that may be

Art Unit: 2143

transmitted to the respective node on the at least one channel of the network (page. 1, paragraph. 12); monitoring the amount of data transmitted from and to a first node (page. 6, paragraph 54); and disallowing at least a portion of one of an attempted data transfer from and to the first node when one of the respective ingress rate restriction and egress rate restriction would be violated by the attempted data transfer (page. 6, paragraph 59).

5. As per claims 2 & 10 Dharanikota disclosed the network according to claim 1, wherein the network is the Internet (page.3, paragraph.27).

6. As per claims 5 & 13 Dharanikota disclosed the network according to claim 1, wherein the at least one egress rate restriction includes a egress committed rate defining a minimum transfer rate reserved in the network for transfers to the respective node and an egress peak rate defining a maximum transfer rate allowable in the network for transfers to the respective node, and the at least one ingress rate restriction includes an ingress committed rate defining a minimum transfer rate reserved in the network for transfers from the respective node and an ingress peak rate defining a maximum transfer rate allowable in the network for transfers from the respective node (page.2, paragraph.12, page.3, paragraphs.28 & 35).

7. As per claims 6 & 14 Dharanikota disclosed the network according to claim 1, wherein the at least one communication channel is a point-to-point communication channel (page.2, paragraphs.12 & 13).

Art Unit: 2143

8. As per claims 7 & 15 Dharanikota disclosed the network according to claim 1, wherein the at least one communication channel is a point- to-multipoint communication channel (page.2, paragraph.12).

9. As per claim 8 Dharanikota disclosed the network according to claim 1, wherein an allowed transmission from the first node to the second node includes either the requested transmission or a portion thereof the management node monitoring transmission from the first node to the second node (page.2, paragraphs.12 & 13).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 4, 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dharanikota et al (U.S. Pub No. 2002/0107908) and Kodialam et al (U.S. Pub No. 2002/0018264A1).

12. As per claims 3, 4, 11 & 12 Dharanikota disclosed the network according to claim 1 (page.1, paragraph. 12, page.3, paragraph 27). However Dharanikota did not explicitly describe,

Art Unit: 2143

wherein the first node and the second node are optical transport network nodes and at least one communication channel is a fiber optic link.

Kodialam disclosed wherein the first node and the second node are optical transport network nodes and at least one communication channel is a fiber optic link (page.2, paragraph. 22).

It would have been obvious to one in the ordinary skill in the art to include fiber optic networks described by Kodialam in the category of networks mentioned by Dharanikota since fiber optic networks namely ATM, support services involving voice, video and data.

Response to Arguments

13. Applicant's arguments filed 22 March 2005 have been fully considered but they are not persuasive.

14. When reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

15. The applicant argued "The examiner provides no page or paragraph reference within Dharanikota et al. to support the statements that Dhranikota et al disclose ingress and egress rate restrictions on the nodes of the network."

Art Unit: 2143

16. As to applicants arguments Dhranikota clearly talks about network element(s) containing ingress and egress cards which supports one or more incoming or outgoing communication links, the flow control module associated with the egress and ingress cards manage the traffic flows based on resource reservation allocated with respect to various policies (please see paragraph 12 on pages 1 & 2, please read lines).

17. The applicant argued, "No mention is made in paragraph 12 of controlling egress and ingress between nodes on a network."

As to applicants arguments please see arguments by the examiner on line 16.

As to applicant's comments regarding the 103 rejections for the dependent claims, the examiner has corrected the inventor name to Dharanikota that was used to reject claim 1.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2143

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Asghar Bilgrami
Examiner
Art Unit 2143

AB

A handwritten signature in black ink, appearing to read 'W.C. Vaughn, Jr.', with a large, stylized flourish at the end.

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER